

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ANTHONY DIMAS ARELLANO, R.N.
6842 Kramer Street
San Diego, CA 92111

Registered Nurse License No. 530634

Respondent.

Case No. 2007-267

OAH No. L-2007060359

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 13, 2007.

It is so ORDERED November 13, 2007.

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FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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of the State of California
2 LINDA K. SCHNEIDER
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9 Attorneys for Complainant

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 ANTHONY DIMAS ARELLANO, R.N.
14 6842 Kramer Street
15 San Diego, CA 92111

16 Registered Nurse License No. 530634

17 Respondent.

Case No. 2007-267

OAH No. L-2007060359

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the
20 public interest and the responsibility of the Board of Registered Nursing of the Department of
21 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
22 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
23 disposition of the Accusation.

24 **PARTIES**

25 1. Ruth Ann Terry, M.P.H, R.N (Complainant) is the Executive Officer of
26 the Board of Registered Nursing. She brought this action solely in her official capacity and is
27 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
28 by Diane De Kervor, Deputy Attorney General.

1 9. Respondent agrees that his Registered Nurse License is subject to
2 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 **CIRCUMSTANCES IN MITIGATION**

5 10. Respondent has never been the subject of any disciplinary action. He is
6 admitting responsibility at an early stage in the proceedings and has been very cooperative in
7 resolving this matter.

8 **CONTINGENCY**

9 11. This stipulation shall be subject to approval by the Board of Registered
10 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
11 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
12 and settlement, without notice to or participation by Respondent. By signing the stipulation,
13 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind
14 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
15 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
16 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
17 between the parties, and the Board shall not be disqualified from further action by having
18 considered this matter.

19 **OTHER MATTERS**

20 12. The parties understand and agree that facsimile copies of this Stipulated
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
22 force and effect as the originals.

23 **DISCIPLINARY ORDER**

24 In consideration of the foregoing admissions and stipulations, the parties agree
25 that the Board may, without further notice or formal proceeding, issue and enter the following
26 Disciplinary Order:

27 IT IS HEREBY ORDERED that Registered Nurse License No. 530634 issued to
28 Respondent Anthony Dimas Arellano, R.N. is revoked. However, the revocation is stayed and

1 Respondent is placed on probation for three (3) years on the following terms and conditions.

2 **Severability Clause.** Each condition of probation contained herein is a separate
3 and distinct condition. If any condition of this Order, or any application thereof, is declared
4 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
5 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
6 and enforceable to the fullest extent permitted by law.

7 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
8 A full and detailed account of any and all violations of law shall be reported by Respondent to
9 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
10 compliance with this condition, Respondent shall submit completed fingerprint forms and
11 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
12 as part of the licensure application process.

13 **Criminal Court Orders:** If Respondent is under criminal court orders, including
14 probation or parole, and the order is violated, this shall be deemed a violation of these probation
15 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

16 2. **Comply with the Board's Probation Program.** Respondent shall fully
17 comply with the conditions of the Probation Program established by the Board and cooperate
18 with representatives of the Board in its monitoring and investigation of the Respondent's
19 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
20 within no more than 15 days of any address change and shall at all times maintain an active,
21 current license status with the Board, including during any period of suspension.

22 Upon successful completion of probation, Respondent's license shall be fully
23 restored.

24 3. **Report in Person.** Respondent, during the period of probation, shall
25 appear in person at interviews/meetings as directed by the Board or its designated
26 representatives.

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1 4. **Residency, Practice, or Licensure Outside of State.** Periods of
2 residency or practice as a registered nurse outside of California shall not apply toward a reduction
3 of this probation time period. Respondent's probation is tolled, if and when he resides outside of
4 California. Respondent must provide written notice to the Board within 15 days of any change of
5 residency or practice outside the state, and within 30 days prior to re-establishing residency or
6 returning to practice in this state.

7 Respondent shall provide a list of all states and territories where he has ever been
8 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
9 provide information regarding the status of each license and any changes in such license status
10 during the term of probation. Respondent shall inform the Board if he applies for or obtains a
11 new nursing license during the term of probation.

12 5. **Submit Written Reports.** Respondent, during the period of probation,
13 shall submit or cause to be submitted such written reports/declarations and verification of actions
14 under penalty of perjury, as required by the Board. These reports/declarations shall contain
15 statements relative to Respondent's compliance with all the conditions of the Board's Probation
16 Program. Respondent shall immediately execute all release of information forms as may be
17 required by the Board or its representatives.

18 Respondent shall provide a copy of this Decision to the nursing regulatory agency
19 in every state and territory in which he has a registered nurse license.

20 6. **Function as a Registered Nurse.** Respondent, during the period of
21 probation, shall engage in the practice of registered nursing in California for a minimum of 24
22 hours per week for 6 consecutive months or as determined by the Board.

23 For purposes of compliance with the section, "engage in the practice of registered
24 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
25 work in any non-direct patient care position that requires licensure as a registered nurse.

26 The Board may require that advanced practice nurses engage in advanced practice
27 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
28 Board.

1 If Respondent has not complied with this condition during the probationary term,
2 and Respondent has presented sufficient documentation of his good faith efforts to comply with
3 this condition, and if no other conditions have been violated, the Board, in its discretion, may
4 grant an extension of Respondent's probation period up to one year without further hearing in
5 order to comply with this condition. During the one year extension, all original conditions of
6 probation shall apply.

7 **7. Employment Approval and Reporting Requirements.** Respondent
8 shall obtain prior approval from the Board before commencing or continuing any employment,
9 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
10 performance evaluations and other employment related reports as a registered nurse upon request
11 of the Board.

12 Respondent shall provide a copy of this Decision to his employer and immediate
13 supervisors prior to commencement of any nursing or other health care related employment.

14 In addition to the above, Respondent shall notify the Board in writing within
15 seventy-two (72) hours after he obtains any nursing or other health care related employment.
16 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated
17 or separated, regardless of cause, from any nursing, or other health care related employment with
18 a full explanation of the circumstances surrounding the termination or separation.

19 **8. Supervision.** Respondent shall obtain prior approval from the Board
20 regarding Respondent's level of supervision and/or collaboration before commencing or
21 continuing any employment as a registered nurse, or education and training that includes patient
22 care.

23 Respondent shall practice only under the direct supervision of a registered nurse
24 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
25 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
26 are approved.

27 Respondent's level of supervision and/or collaboration may include, but is not
28 limited to the following:

1 (a) Maximum - The individual providing supervision and/or collaboration is
2 present in the patient care area or in any other work setting at all times.

3 (b) Moderate - The individual providing supervision and/or collaboration is in
4 the patient care unit or in any other work setting at least half the hours Respondent works.

5 (c) Minimum - The individual providing supervision and/or collaboration has
6 person-to-person communication with Respondent at least twice during each shift worked.

7 (d) Home Health Care - If Respondent is approved to work in the home health
8 care setting, the individual providing supervision and/or collaboration shall have person-to-
9 person communication with Respondent as required by the Board each work day. Respondent
10 shall maintain telephone or other telecommunication contact with the individual providing
11 supervision and/or collaboration as required by the Board during each work day. The individual
12 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
13 site visits to patients' homes visited by Respondent with or without Respondent present.

14 9. **Employment Limitations.** Respondent shall not work for a nurse's
15 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
16 traveling nurse, or for an in-house nursing pool.

17 Respondent shall not work for a licensed home health agency as a visiting nurse
18 unless the registered nursing supervision and other protections for home visits have been
19 approved by the Board. Respondent shall not work in any other registered nursing occupation
20 where home visits are required.

21 Respondent shall not work in any health care setting as a supervisor of registered
22 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
23 nurses and/or unlicensed assistive personnel on a case-by-case basis.

24 Respondent shall not work as a faculty member in an approved school of nursing
25 or as an instructor in a Board approved continuing education program.

26 Respondent shall work only on a regularly assigned, identified and predetermined
27 worksite(s) and shall not work in a float capacity.

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1 If Respondent is working or intends to work in excess of 40 hours per week, the
2 Board may request documentation to determine whether there should be restrictions on the hours
3 of work.

4 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall
5 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
6 than six months prior to the end of his probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the
8 course(s). Respondent shall submit to the Board the original transcripts or certificates of
9 completion for the above required course(s). The Board shall return the original documents to
10 Respondent after photocopying them for its records.

11 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
12 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
13 amount of \$3,500.00. Respondent shall be permitted to pay these costs in a payment plan
14 approved by the Board, with payments to be completed no later than three months prior to the
15 end of the probation term.

16 If Respondent has not complied with this condition during the probationary term,
17 and Respondent has presented sufficient documentation of his good faith efforts to comply with
18 this condition, and if no other conditions have been violated, the Board, in its discretion, may
19 grant an extension of Respondent's probation period up to one year without further hearing in
20 order to comply with this condition. During the one year extension, all original conditions of
21 probation will apply.

22 12. **Violation of Probation.** If Respondent violates the conditions of his
23 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
24 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
25 license.

26 If during the period of probation, an accusation or petition to revoke probation has
27 been filed against Respondent's license or the Attorney General's Office has been requested to
28 prepare an accusation or petition to revoke probation against Respondent's license, the

1 probationary period shall automatically be extended and shall not expire until the accusation or
2 petition has been acted upon by the Board.

3 13. **License Surrender.** During Respondent's term of probation, if he ceases
4 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
5 probation, Respondent may surrender his license to the Board. The Board reserves the right to
6 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
7 take any other action deemed appropriate and reasonable under the circumstances, without
8 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
9 will no longer be subject to the conditions of probation.

10 Surrender of Respondent's license shall be considered a disciplinary action and
11 shall become a part of Respondent's license history with the Board. A registered nurse whose
12 license has been surrendered may petition the Board for reinstatement no sooner than the
13 following minimum periods from the effective date of the disciplinary decision:

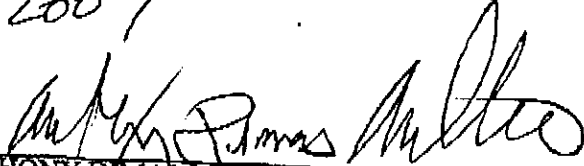
14 (1) Two years for reinstatement of a license that was surrendered for any
15 reason other than a mental or physical illness; or

16 (2) One year for a license surrendered for a mental or physical illness.

17 **ACCEPTANCE**

18 I have carefully read the Stipulated Settlement and Disciplinary Order. I
19 understand the stipulation and the effect it will have on my Registered Nurse License. I enter
20 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
21 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

22 DATED: 9 Aug, 2007

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25 ANTHONY DIMAS ARELLANO, R.N.
26 Respondent
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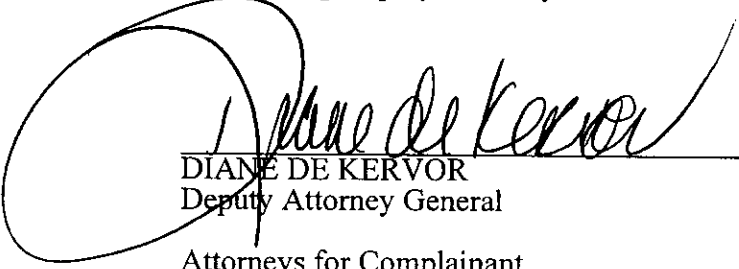
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: August 9, 2007

EDMUND G. BROWN JR., Attorney General
of the State of California

LINDA K. SCHNEIDER
Supervising Deputy Attorney General


DIANE DE KERVOR
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: SD2006800105
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Exhibit A
Accusation No. 2007-267

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 MARGARET A. LAFKO

Supervising Deputy Attorney General

3 DIANE de KERVOR, State Bar No. 174721

Deputy Attorney General

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8 Attorneys for Complainant

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11 **BEFORE THE**
12 **BOARD OF REGISTERED NURSING**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2007-267

14 **ANTHONY DIMAS ARELLANO**

6842 Kramer Street

15 San Diego, CA 92111

16 Registered Nurse License No. 530634

17 Respondent.

ACCUSATION

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about March 10, 1997, the Board of Registered Nursing ("Board")
24 issued Registered Nurse License Number 530634 to Anthony Dimas Arellano ("Respondent").
25 The license will expire on June 30, 2008, unless renewed.

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JURISDICTION

3. Section 2750 of the Business and Professions Code ("Code") provides:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this article, 'license' includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein."

STATUTORY AND REGULATORY PROVISIONS

4. Code section 2761, subdivision (a)(1) provides:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

5. California Code of Regulations, title 16, section 1442, provides:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

6. Code section 125.3 provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 incorrect and incomplete patient inter-facility transfer orders for Patient M. B. without
2 identifying, consulting with, or seeking approval from the patient's attending physician, as set
3 forth in paragraphs 7 to 13, inclusive, which are realleged and incorporated herein by this
4 reference.

5 **PRAYER**

6 **WHEREFORE**, Complainant requests that a hearing be held on the matters
7 herein alleged, and that following the hearing the Board issue a decision:

- 8 1. Revoking or suspending Registered Nurse License Number 530634, issued
9 to Anthony Dimas Arellano;
- 10 2. Ordering Anthony Dimas Arellano to pay the reasonable costs incurred by
11 the Board in the investigation and enforcement of this case pursuant to Code section 125.3; and,
12 3. Taking such other and further action as deemed necessary and proper.

13
14 **DATED:** 4/10/07

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16 
17 RUTH ANN TERRY, M.P.H., R.N.
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant
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